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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, NGA B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/492,961

Applicant(s)

OLDHAM ET AL.

Examiner

Nga B. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on October 23, 2003, which paper has been placed of record in the file.
2. Claims 1-43 are pending in this application.

Response to Amendment/Arguments

3. Applicant's arguments with respect to claims 1-43 have been considered but are not persuasive.

(1) Although Curkendall does not disclose a method for conducting a cattle auction, Curkendall meets all the steps for certifying a cattle prior to the sale as cited in the previous action. Curkendall discloses providing a seller with guidelines for processing an animal prior to an auction; providing the seller with an electronic identification unit for animal prior to the auction; providing the seller with a visual identification tag for animal prior to the auction; providing the seller with a data card for animal prior to the auction; providing the seller with a data card for animal prior to the auction; etc... (see details below). Thus, it is clear that all of the steps cited by applying Curkendall occur prior to the auction, not during the auction. Therefore, Curkendall meets all the steps for certifying a cattle prior to the auction.

(2) The applicant claimed invention recites a method for conducting a cattle auction in which the seller is provided a guidelines, an electronic identification unit for animal, a visual identification tag, a sales certification form, etc...prior to the auction; conducting cattle auction and managing the settlement between buyers and sellers.

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Curkendall discloses providing the seller a guidelines, an electronic identification unit for animal, a visual identification tag, etc...prior to the auction. Cobb discloses providing the seller a sales certification form prior to the auction. Shkedy discloses conducting an auction and managing the settlement between buyers and sellers. Therefore, combining Curkendall, Cobb, and Shkedy is reasonable. Moreover, The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also In re Sneed, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."); and In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) ("Combining the teachings of references does not involve an ability to combine their specific structures.").

(3) Cobb discloses providing the seller with a sales certification form prior to the sale (see column 11, lines 55, the purchaser becomes the seller in subsequently sells the animal). Cobb also teaches collecting background information of the animal (column 4, lines 54-67, microchip number, sex, color, etc...).

(4) Shkedy discloses conducting an auction and managing the settlement between buyers and sellers. Shkedy teaches the auction for products in common. Although Shkedy does not specify an auction for livestock, but the difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The auction process and the settlement between buyers and sellers would be performed the same regardless of any type of product. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

In conclusion, for the reason stated above, examiner decides to maintain the rejection using the prior arts as specified in the previous office action (also see details below) and make this action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curkendall et al (hereinafter Curkendall), U.S. Patent No. 6,342,839 in view of Cobb et al (hereinafter Cobb), U.S. Patent No. 6,183,258, and further in view of Shkedy, U.S. Patent No. 6,260,024.

Regarding to claim 1, Curkendall discloses a method for certifying cattle, comprising:

providing a seller with guidelines for processing an animal prior to an auction, seller processing animal according to guidelines, guidelines including at least one required vaccination, at least one required medication, at least one required treatment, at least one required health record, and required electronic identification for the animal (column 16, lines 5-32; column 11, lines 15-20; column 12, lines 25-26);

providing the seller with an electronic identification unit for animal prior to the auction, seller identifying animal with the electronic identification unit, electronic identification unit containing a unique animal code for the animal (column 6, lines 45-65, transponder);

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providing the seller with a visual identification tag for animal prior to the auction, seller identifying the animal with the visual identification tag, visual identification tag containing a unique animal code for the animal (column 13, lines 30-35, ear tag);

providing the seller with a data card for animal prior to the auction, seller completing the data card for each animal, data card including a unique animal code corresponding to the unique animal code contained in the electronic identification unit for the animal and further including fields for the seller to provide animal data including information on the animal's physical characteristics, administrative information on the animal, and information on medications, vaccinations and treatments given to the animal (column 6, line 65-column 7, line 9, Work Card);

obtaining completed data card from seller (column 10, lines 40-65);

reading animal data and correspond unique animal code into first electronic database maintained on host computer for the auction barn facility, host computer running a first software application (column 9, lines 24-52);

verifying that animal has electronic identification unit containing unique animal code (column 6, lines 58-65);

receiving animal into auction barn facility (column 13, lines 7-17);

providing seller with a receipt for animal (column 16, lines 43-45);

assigning unique group code to animal by sorting animal into group with other animals having at least one common characteristic, by means of unique group code (column 12, lines 48-62);

recording animal's unique animal code into second electronic database on host computer running a second software application (column 14, lines 17-23);

recording animal's unique group code corresponding to the animal's unique animal code into second electronic database on host computer running a second software application (column 12, lines 48-62);

weighing the animal (column 14, lines 50-55);

recording animal's weight corresponding the unique animal code into second electronic database on host computer running a second software application (column 14, lines 55-67);

re-sorting the animals a second time to confirm that animals are in appropriate grouping (column 13, lines 7-17);

Curkendall does not disclose providing the seller with a sales certification form prior to the auction, seller completing the sales certification form for each animal, sales certification form having fields for the seller to providing background information, identifying information on the animal, information on vaccination given to the animal, and seller's signature, seller thereby certifying that the animal was processed according to vaccination processing guidelines and obtaining completed sales certification form from the seller. However, Cobb discloses providing the seller with a sales certification form prior to the auction, seller completing the sales certification form for each animal...(column 9, line 32-column 10, line 62 and column 11, lines 27-55). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the feature above with Curkendall's for the purpose of obtaining

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animal's information from the seller. Moreover, Curkendall does not disclose auctioning an animal or group of animals; recording buyer data, including buyer name and information sufficient to ascertain amount due from buyer, into second electronic database on host computer for the auction barn facility, host computer running a second software application; preparing a check for the seller by means of the second software application; and preparing an invoice for the buyer by means of the second software application. However, Shkedy disclose an auction method comprises: recording buyer data, including buyer name and information sufficient to ascertain amount due from buyer, into second electronic database on host computer for the auction barn facility, host computer running a second software application (column 10, lines 1-10); preparing a check for the seller by means of the second software application (column 18, lines 58-67); and preparing an invoice for the buyer by means of the second software application (column 9, lines 35-53). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the feature above with Curkendall's for the purpose of performing settlement between buyer and seller in the auction.

Regarding to claims 2, 4, Curkendall further discloses reading the animal's unique animal code and group code with a radio frequency identification reader unit which queries a radio frequency identification transponder such that the transponder provide a unique animal code; uploading the unique animal code from the reader to the host computer by means of wireless radio frequency connection; wherein electronic

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identification unit is a radio frequency identification transponder (column 7, lines 45-column 8, line 45).

Regarding to claim 3, Curkendall further discloses the electronic identification unit is located on the animal's ear (column 6, lines 46-52).

Regarding to claims 5, 6, Curkendall further discloses exporting buyer data from the second electronic database maintained on the host computer using the second software application into an information file; importing buyer data from the information file into the first electronic database maintained on the host computer using the first software application; and maintaining first electronic database on at least one computer such that animal data can be accessed according to the animal's unique animal code; communicating between the first electronic database and at least one additional electronic database on each computer such that animal data is shared between databases without the necessity of reentering data (column 15, lines 43-55 and column 19, lines 12-40).

Regarding to claim 7, Curkendall further discloses the guidelines include at least one requirement for an effective amount of a vaccine (column 15, lines 56-65). Curkendall does not teach the specific type of vaccines selected from the group consisting of a four-way virus vaccine, a Pasteurella vaccine, and a combination of a clostridial seven-way vaccine and Hemophilus somnus vaccine, etc,...However, such type of vaccines is well known vaccines needed for animals. Therefore, it would have been obvious to include such type of vaccines in Curkendall's for the purpose of providing vaccines to prevent animals from sickness.

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Regarding to claim 8, Curkendall further discloses the guidelines include a required deworm medication once at weaning (column 12, lines 25, 47). Curkendall does not teach the specific type of the manufacturer and corresponding trade name of deworm medication are selected from the group of Merial Ivomec, etc...However, such type of deworm medication is well known medication needed for weaning animals. Therefore, it would have been obvious to include such type of medicine in Curkendall's for the purpose of providing medical treatment for weaning animals.

Regarding to claim 9, Curkendall further discloses the guidelines include a required weaning data for the animal and required weaning data is at least forty five days prior to the auction (column 12, lines 47).

Regarding to claim 10, Curkendall does not teach the guidelines include at least one requirement for the location of administration of each vaccination, requirement being selected from the group of using the neck area for intramuscular injection, etc...However, it is well known to provide the location of administration of each vaccination for animals. Therefore, it would have been obvious to include the feature above for the purpose of providing vaccination location information of each animal to the user.

Regarding to claim 11, Curkendall further discloses the guidelines include at a least one recommendation for nutrition for an animal and the nutrition is selected from the group of: high quality, high energy rations, etc, ...(column 5, lines 27-32 and column 12, lines 63-67).

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Regarding to claim 12, Cobb further discloses the fields for the seller's background information, identifying information on the animal, information on vaccinations given to the animal, and seller's signature on the sales certification from include: the seller's name, the ranch name, etc,...(column 9, line 32-column 10, line 62 and column 11, lines 27-55).

Regarding to claim 13, Curkendall further discloses data card is complete using abbreviations contained on at least one code card; and data card has fields fro animal data including information on the animal's physical characteristics, etc...(column 10, line 40-column 12, line 48).

Regarding to claim 14, Curkendall further discloses a common characteristic of the group of animals to which animal is assigned is selected from the group consisting of size, frame, and breed (column 12, lines 63-67).

Regarding to claim 15, Curkendall does not teach information sufficient to ascertain purchase price comprises price per pound for animal or group of animals purchased and with in pounds of animal or group of animals purchased. However, it is well known to to ascertain purchase price comprises price per pound for animal or group of animals. Therefore, it would have been obvious to include the feature above for the purpose of providing animal purchase price based on price per pound for animal.

Claims 16-28 contain similar limitations found in claims 1, 2, 5-15 as discussed above, therefore are rejected by the same rationale.

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7. Claims 29-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curkendall et al (hereinafter Curkendall), U.S. Patent No. 6,342,839 in view of Cobb et al (hereinafter Cobb), U.S. Patent No. 6,183,258.

Regarding to claim 29, Curkendall discloses a method for certifying cattle for an auction between a seller and a buyer comprising:

providing seller with a plurality of required guidelines for processing at least one animal prior to auction, required guidelines comprising: at least one required vaccination, at least one required treatment to animal, at least one required health record, and a required waning date for at least one animal that is at least forty five days prior to auction (column 16, lines 5-32; column 11, lines 15-20; column 12, lines 25-26);;

utilizing, by seller, an electronic identification unit on each of at least one animal, each of identification units comprising a unique animal code for each of at least one animal (column 6, lines 45-65, transponder);

collecting information in each of at least one animal comprising: physical characteristics of at least one animal (column 14, lines 50-65);

Curkendall does not disclose processing a complete and signed certification form which certified that at least one animal was processed in accordance with required processing guidelines; and providing buyer with at least a portion of collected information and information regarding certification. However, Cobb discloses processing a complete and signed certification form which certified that at least one animal was processed in accordance with required processing guidelines; and providing buyer with at least a portion of collected information and information regarding certification (column

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9, line 32-column 10, line 62 and column 11, lines 27-55). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the feature above with Curkendall's for the purpose of obtaining animal's information from the seller.

Regarding to claims 30-34, Curkendall further discloses guidelines further comprises: a required vaccination regimen; a required treatment regimen comprises dehorning at least on animal, castrating at least one animal; performing injections in at least on animal in a region of the neck of at least one animal (column 11, lines 1-column 12, line 48).

Regarding to claims 35, 36, Curkendall further discloses physical characteristics of collected information comprises: weight information, the sex of at least on animal (column 14, lines 50-67 and column 12, line 13).

Regarding to claim 37, Curkendall further discloses collected information is collected and stored based, at least in part, one unique animal code (column 14, lines 17-23).

Regarding to claim 38, Curkendall discloses a method for certifying cattle for an automated cattle auction comprising:

providing seller with a plurality of required guidelines for processing at least one animal prior to auction, required guidelines comprising: at least one required vaccination, at least one required medication, at least one required treatment to at least one animal, at least one required health record, and a required weaning date for at least

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one animal that is at least forty five days prior to auction (column 16, lines 5-32; column 11, lines 15-20; column 12, lines 25-26);;

utilizing an electronic identification comprising a unique animal code for each of at least one animal (column 6, lines 45-65, transponder);

collecting individual animal data comprising: physical characteristics information for each of at least one animal during processing of at least one animal (column 14, lines 50-67);

automatically collecting information comprising: animal weight and unique animal code, for each of at least one animal (column 14, lines 17-23, 50-67); and

automatically updating a database record with collected information corresponding to at least one animal with collected information prior to auction (column 11, lines 9-12).

Curkendall does not disclose submitting a signed certification form which certifies that at least one animal was processed on accordance with required processing guidelines. However, Cobb discloses submitting a signed certification form which certifies that at least one animal was processed on accordance with required processing guidelines; (column 9, line 32-column 10, line 62 and column 11, lines 27-55).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the feature above with Curkendall's for the purpose of obtaining animal's information from the seller.

Claims 39-43 contain similar limitations found in claims 30-34 discussed above , therefore are rejected by the same rationale.

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Conclusion

8. Claims **1-43** are rejected.

9. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Morrison, Financial Post, discloses the livestock auction vial the Internet.

Actualidad Econimica discloses "on-line" cattle.

Business Wire, discloses online auction for cattle.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen, whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 8:30 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough, can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

11. **Any response to this action should be mail to:**

Commissioner of Patents and Trademarks

c/o Technology Center 3600

Washington, D.C. 20231

or faxed to:

(703) 872-9322, (for formal communications intended for entry)

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or:

(703) 308-3961, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen
February 4, 2004


HYUNG SOUH
SUPERVISORY PATENT EXAMINER
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